



"To enrich lives through effective and caring service"



Stan Wisniewski
Director

Kerry Silverstrom
Chief Deputy

May 17, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVE SECOND AMENDMENT TO THE ADOPT-A-HIGHWAY
BEACH TRASH BARREL SPONSORSHIP AGREEMENT
(3RD and 4TH DISTRICTS)
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the recommended action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Class 4(j) of the County's Environmental Document Reporting Procedures and Guidelines.
2. Authorize and instruct the Chair of the Board of Supervisors to sign the attached second amendment (Amendment) to authorize the Director to extend the current Beach Trash Barrel Sponsorship Agreement #69984 (Agreement) with Adopt-A-Highway Maintenance Corporation (Adopt-A-Highway) for five years, with one five-year option, in exchange for Adopt-A-Highway providing lidded Trash Barrels (Barrels) for all County operated beaches. For this extension, Adopt-A-Highway will pay the County over the extension period a minimum of \$1,575,000 to be designated for maintaining County operated beaches and provide the Department of Beaches and Harbors (Department) with an estimated \$2,636,000 in cost savings, for a total financial benefit of \$4,211,000.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The current Agreement with Adopt-A-Highway was approved by your Board on April 23, 1996 and amended on April 30, 2002 and annually provides the Department with 2500 – 3000 Barrels placed on beaches owned or operated by Los Angeles County (Beaches) along with cash payments from the sale of advertising space on the Barrels. The first

amendment extended this Agreement for an additional four months to include the summer 2006 season, ending on October 23, 2006, in exchange for Adopt-A-Highway honoring the County's exclusive advertising rights for two new exclusive beach sponsors--in the Bottled Water and Carbonated Beverages sponsorship categories--on the Barrels as long as those sponsors purchased advertising from Adopt-A-Highway.

The purpose of this Amendment is to address an ongoing problem that the Department, as well as other public and private agencies, have identified since the Agreement was adopted: (1) trash in the Barrels being scattered about Beaches by animals or birds, for instance, sea gulls; and (2) contents of the Barrels being blown out by high winds and adverse weather conditions. To facilitate the elimination of a cause of trash on the Beaches, this Amendment will mandate that Adopt-A-Highway provide Barrels with lids on all Beaches as directed by the Department. In exchange for Adopt-A-Highway providing these lidded Barrels, this Amendment will extend the Agreement's termination date up to October 23, 2016, which will allow Adopt-A-Highway additional time, through the sale of its advertising, to recoup the increased costs of providing these lidded Barrels on the Beaches.

For those additional ten years, Adopt-A-Highway will pay the County minimum payments totaling \$1,575,000, which will support the Department's beach maintenance operations. The County's payments may increase if, pursuant to a new rent formula, Adopt-A-Highway's revenues from the sale of advertising on the Barrels exceed certain minimum percentages as outlined in the Amendment. In addition, Adopt-A-Highway will become responsible for the maintenance of all Barrels on the beach. The cost savings to the Department for not having to provide and maintain these Barrels until October 23, 2016 is estimated to be \$2,636,000. As an added benefit to the County, this extension will help assure that the County receives an ongoing and uninterrupted supply of Barrels toward a cleaner, healthier coastline for many years to come.

In addition, as of April 16, 2007, the exclusivity of our Bottled Water and Carbonated Beverages sponsor will be maintained without the need for that sponsor(s) to pay an annual fee. As of that date, Adopt-A-Highway will only provide advertising on the Trash Barrels for this sponsor if it becomes one of Adopt-A-Highway's customers.

Finally, this Amendment will make various administrative and definitional changes to the Agreement to (1) update insurance provisions that have been modified by the County since the original approval by your Board of this Agreement in 1996, (2) give the Department the ability to remove previously approved advertisements from the Barrels that garner a negative public reaction, (3) add a late fee if Adopt-A-Highway makes a late

payment, and (4) further clarify the maintenance responsibilities of Adopt-A-Highway for the Barrels.

Implementation of Strategic Plan Goals

The services provided through this Amendment will help to promote several aspects of the County's Strategic Plan Goals. It promotes Service Excellence by mitigating the effects of trash blowing around the Beaches from the Barrels. It also promotes Organizational Effectiveness by relieving the Department's own beach maintenance staff of having to pick up additional trash scattered around the Beach as well as by ensuring that additional responsibilities (maintaining the Barrels) will be fulfilled by a private contractor at no cost to the County. In addition, the Department strengthens the County's Fiscal Responsibility by ensuring that donated Barrels will continue to be provided and by obtaining a significant revenue stream to help fund beach maintenance operations on the Beaches.

FISCAL IMPACT/FINANCING

The Amendment over the entire extension period commencing October 23, 2006 will provide the County with a total of \$1,575,000 in payments and \$2,636,000 in estimated cost savings (including savings from the installation of lids effective immediately), resulting in the County receiving a total financial benefit of \$4,211,000.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Other than the changes identified, all other provisions of the Agreement will remain in effect.

County Counsel has approved this Amendment as to form. The Beach Commission has approved the Director's recommendation.

ENVIRONMENTAL DOCUMENTATION

Approval of this Amendment is categorically exempt from the provisions of CEQA pursuant to Class 4(j) of the County's Environmental Document Reporting Procedures and Guidelines because it involves little to no alterations to the conditions of County-owned or operated property.

The Honorable Board of Supervisors
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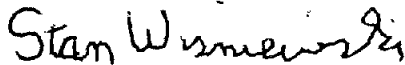
IMPACT ON CURRENT SERVICES (OR PROJECTS)

This Amendment will help to secure the uninterrupted provision of Barrels for up to an additional ten years until October 23, 2016 and thus enable the Department to continue providing exemplary services and clean beaches for the estimated 55 million annual visitors to our County's Beaches.

CONCLUSION

Instruct the Executive Officer, Board of Supervisors, to forward an approved copy of this Board letter and two executed originals of the Amendment to the Department.

Respectfully submitted,



Stan Wisniewski
Director

SW:wp

Attachments (1)

c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors

**AMENDMENT NO. 2 TO AGREEMENT NO. 69984
BY AND BETWEEN THE COUNTY OF LOS ANGELES
AND THE ADOPT-A-HIGHWAY MAINTENANCE CORPORATION**

This Agreement is entered into this _____ day of _____ 2005, by and between the COUNTY OF LOS ANGELES ("County"), a political subdivision of the State of California, and the ADOPT-A-HIGHWAY MAINTENANCE CORPORATION ("Sponsor"), a California corporation.

RECITALS

- A. On April 23, 1996, the Sponsor and the County entered into Agreement No. 69984 (the "Agreement") whereby the Sponsor agreed to underwrite a portion of the costs for the Department's beach maintenance equipment and supplies in exchange for the exclusive right to sell advertising on donated Trash Barrels that are placed on Los Angeles County Beaches.
- B. On April 30, 2002, the Sponsor and the County approved Amendment No. 1 to the Agreement whereby the term of the Agreement was extended an additional four months along with other changes to accommodate County's exclusive sponsor categories.
- C. The County desires to have lidded Trash Barrels in order to protect the coastline from debris caused by trash blowing out of the Barrels or being removed from the Barrels by animals or birds.
- D. To compensate Sponsor for the increased costs of providing donated lidded Trash Barrels, ongoing sponsorship fees and updated County language to this Agreement, the County and the Sponsor have agreed to extend the current agreement for up to ten years.
- E. The extension of the Agreement for up to ten years is advantageous to the County because it annually secures payments that are used to underwrite beach maintenance operations and receives up to 3,000 lidded Trash Barrels for use on County Beaches to help keep the beaches free of debris that could otherwise enter the oceans.

AMENDMENT

NOW, THEREFORE, in consideration of the above, it is hereby agreed by and between the parties as follows:

- 1. The term of Agreement No. 69984 will be extended by the Director for five years from October 23, 2006 until October 23, 2011 provided that all the conditions for renewal in the Agreement are fulfilled including without limitation all of the sections and subsections added by this Amendment. Thereafter, the Director, upon request by the Sponsor, shall grant a five-year extension of the Agreement from October 23, 2011 to October 23, 2016 provided that all the conditions for renewal in the Agreement are

fulfilled including without limitation all of the sections and subsections added by this Amendment.

2. Section 1, Definitions, is hereby amended as follows:

a. Subsection 1.F is deleted in its entirety and the following is added:

“Gross Revenue” shall mean all revenue collected by Sponsor for an Agreement Year from its Clients for the advertising placed on the Trash Barrels, minus (1) the commission(s) paid to recognized and credible advertising agencies and the Surfrider Foundation and other non-profit organizations that assist with Sponsor’s marketing efforts and (2) any direct costs associated with maintaining the Trash Barrels Maintenance Standard, which combined expenses will not exceed 45 percent of the revenue collected.

b. Subsection 1.J is deleted in its entirety and the following is added:

“Trash Barrels” shall mean the 55–gallon trash receptacles and lids donated by the Sponsor and placed on beaches operated by the Department, which, after such placement, are owned by the County.

c. Subsection 1.K is added as follows:

“Trash Barrels Maintenance Standard” shall mean the way in which the Sponsor is completely responsible for maintaining the Trash Barrels, as indicated on Exhibit A.

d. Subsection 1.L is added as follows:

“Business Day(s)” shall mean a day or days of the week falling on Monday, Tuesday, Wednesday or Thursday; County holidays are specifically excluded.

3. Section 2, County’s Obligations, is hereby amended as follows:

Subsection 2.C., 1st sentence is deleted and replaced as follows:

County agrees to reasonably place and empty 3000 Trash Barrels on Los Angeles County Beaches during the months of April thru October of each Agreement Year, and 2500 Trash Barrels during the months of November to March of each Agreement Year. The County will also have the obligation to inform the Sponsor if reasonably possible at least five days in advance if Trash Barrels are to be moved or relocated to accommodate special events, maintenance needs, safety concerns, and/or other circumstances that would alter Sponsor’s beach inventory count.

4. Section 3, Sponsor’s Obligations, is hereby amended as follows:

a. Subsection 3.B(12) is added as follows:

Sponsor will make two cash payments every Agreement Year commencing on October 23, 2006 as detailed immediately below. If the sum of such payments and the Sponsor's Cost of the Trash Barrels (the actual cost for purchasing the Trash Barrels and having them delivered directly to the Sponsor by the manufacturer) in any Agreement Year is less than the minimum percentage (as set forth below) of the Sponsor's Gross Revenue for that Agreement Year, then the Sponsor will pay the County the minimum percentage (minus the 1st Payment, the 2nd Payment, and the Sponsor's Cost for that Agreement Year) along with providing an accounting of Sponsor's Gross Revenue by the date identified immediately below. Regardless if any minimum percentage in any Agreement Year is owed, Sponsor will still send County an accounting of Sponsor's Gross Revenue by the date the minimum percentage would otherwise be due. The payment schedule for the eleventh through twentieth Agreement Years is as follows:

Agreement Year	1 st Payment and Due Date	2 nd Payment and Due Date	Total in Payments	Minimum Percentage of Gross Revenue	Minimum Percentage Due by
11 th	\$100,000 on 10/23/06	\$50,000 on 4/23/07	\$150,000	25%	12/8/07
12 th	\$100,000 on 10/23/07	\$50,000 on 4/23/08	\$150,000	25%	12/8/08
13 th	\$100,000 on 10/23/08	\$50,000 on 4/23/09	\$150,000	30%	12/8/09
14 th	\$100,000 on 10/23/09	\$50,000 on 4/23/10	\$150,000	30%	12/8/10
15 th	\$100,000 on 10/23/10	\$50,000 on 4/23/11	\$150,000	30%	12/8/11
16 th	\$105,000 on 10/23/11	\$50,000 on 4/23/12	\$155,000	35%	12/8/12
17 th	\$110,000 on 10/23/12	\$50,000 on 4/23/13	\$160,000	35%	12/8/13
18 th	\$115,000 on 10/23/13	\$50,000 on 4/23/14	\$165,000	40%	12/8/14
19 th	\$120,000 on 10/23/14	\$50,000 on 4/23/15	\$170,000	40%	12/8/15
20 th	\$125,000 on 10/23/15	\$50,000 on 4/23/16	\$175,000	40%	10/23/16

b. Subsection 3.B(13) is added as follows:

Effective immediately, all late payments made to fulfill the requirements of this Section 3 will accrue interest at an annual interest rate of 10% beginning five calendar days after the payment is due, and any applicable interest charge shall be calculated as of the date a payment is received.

- c. Subsection 3.D has the following sentence added as its last sentence:

The Sponsor shall also have the continuing obligation to apply the Trash Barrels Maintenance Standard to all Trash Barrels, whether or not there is paid advertising in the Advertising Space. This obligation includes the Sponsor's responsibilities under Section 3.E of this Agreement.

- d. All of Subsection 3.E is deleted and replaced with the following:

The design, capacity, material, color and all other specifications of the Trash Barrels shall be approved by the County, which approval shall not be unreasonably withheld. For the Sponsor or County to make any changes to the Trash Barrels, prior written approval of specifications must be obtained and mutually agreed upon and shall not be unreasonably withheld by either party. The design, materials, and specifications of the lid portion of the Trash Barrels are attached (Exhibit B). If the lid, which is a portion of the Trash Barrel, does not function to allow the public to use or the Department's maintenance staff to reasonably empty the Trash Barrels, then the County shall notify Sponsor so that the parties may develop a mutually agreeable solution that, if necessary, may alter any aspect of Exhibit B. The lid will be installed on all Trash Barrels by Sponsor and at Sponsor's expense within 180 days of the approval of this Amendment, unless otherwise directed by the Department.

- e. Subsection 3.F(1) is added as follows:

The Sponsor shall ensure that at least 95% of the Trash Barrels placed on Los Angeles County Beaches have on the barrel either Client advertising and/or a public service message banner as approved by the County. The Sponsor shall carry out this obligation at its sole expense.

- f. Subsection 3.H is deleted and replaced with the following:

Sponsor represents that all advertisements shall be appropriate and in good taste. Advertisements shall not include political advertising, materials critical of government agencies, advertisements for indecent, obscene, pornographic or sexually explicit materials, materials advocating the use of illegal substances, tobacco, or alcohol products, or for any entity in direct competition with the Department's exclusive marketing sponsors in the following categories: automobile, bottled water and carbonated beverage.

- g. Subsection 3.H(5) is added as follows:

Subsection 3.H(1), Subsection 3.H(2), Subsection 3.H(3) and Subsection 3.H(4) will terminate as of April 16, 2007.

h. Subsection 3.J has its last sentence deleted and the following two sentences added as its conclusion:

In addition, advertisement(s) already approved by the County may need to be removed from the Advertising Space by Sponsor at County's direction if there is a negative public reaction as reasonably determined by County against any such advertisement(s). If the County disapproves of any advertisement and Sponsor so requests, then the Director of his designee shall meet with Sponsor and make a good faith attempt to resolve any disagreement.

5. Section 7, Insurance, is hereby amended as follows:

All of Section 7 is deleted and replaced with the following:

General Insurance Requirements: Without limiting Sponsor's indemnification of County and during the term of this Agreement, Sponsor shall provide and maintain, and shall require all of its subcontractors to maintain, the following programs of insurance specified in this Agreement. Such insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by County, and such coverage shall be provided and maintained at Sponsor's own expense.

A. **Evidence of Insurance:** Certificate(s) or other evidence of coverage satisfactory to County shall be delivered to Department of Beaches and Harbors, Community and Marketing Services Division, 13837 Fiji Way, Marina del Rey, CA 90292, Attn: Marketing Section prior to commencing services under this Agreement. Such certificates or other evidence shall:

- (1) Specifically identify this Agreement.
- (2) Clearly evidence all coverages required in this Agreement.
- (3) Should any of the policies evidenced on the certificate of insurance be cancelled before the expiration date thereof, the issuing insurer and Sponsor shall provide 30 days' prior written notice to the County of such cancellation of insurance or policies evidenced on the certificate of insurance.
- (4) Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this Agreement.
- (5) Identify any deductibles or self-insured retentions for County's approval. The County retains the right to require Sponsor to reduce or eliminate such deductibles or self-insured retentions as they apply to County, or require Sponsor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations, and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

B. **Insurer Financial Ratings:** Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by County.

C. **Failure to Maintain Coverage:** Failure by Sponsor to maintain the required insurance, or to provide evidence of insurance coverage acceptable to County, shall constitute a material breach of contract upon which County may immediately terminate or suspend this Agreement.

D. **Notification of Incidents, Claims or Suits:** Sponsor shall provide a written report of the following to the County contact listed in Section 10:

- (1) any accident or incident relating to services performed under this Agreement which involves injury or property damage that result in the filing of a claim or lawsuit against Sponsor and/or County. Such report shall be made in writing within three Business Days of receipt.
- (2) any third party claim or lawsuit filed against Sponsor arising from or related to services performed by Sponsor under this Agreement. Such report shall be made within three Business Days of receipt of the third party claim or lawsuit by Sponsor.
- (3) any injury to a Sponsor employee resulting in a workers' compensation claim that occurs on Los Angeles County Beaches. This report shall be submitted on a County "Non-employee Injury Report" to the County contract manager. Such "Non-employee Injury Report" shall be submitted within three Business Days of Sponsor's receipt of notice of the filing of a workers' compensation claim.
- (4) any single event that results in a significant loss (more than 25 Trash Barrels), disappearance, destruction, misuse, or theft of any kind whatsoever of any County property including Trash Barrels. Such report shall be made within three Business Days of any such occurrences.

E. **Insurance Coverage Requirements for Subcontractors:** Sponsor shall ensure that any and all subcontractors performing services under this Agreement meet the insurance requirements of this Agreement, including maintenance of insurance coverage and Sponsor shall provide written notice of cancellation of insurance to the County as provided by this Agreement. Sponsor may provide proof of insurance by either:

- (1) Sponsor providing evidence of insurance covering the activities of subcontractors, or
- (2) Sponsor providing evidence submitted by subcontractors evidencing that subcontractors maintain the required insurance coverage. County retains the right to obtain copies of evidence of subcontractor insurance coverage at any time.

Insurance Coverage Requirements:

A. **General Liability** insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

B. **Automobile Liability** insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all “owned”, “hired” and “non-owned” vehicles, or coverage for “any auto”.

C. **Workers’ Compensation and Employers’ Liability** insurance providing workers’ compensation benefits, as required by the Labor Code of the State of California or by any other state, and for which Sponsor is responsible. If Sponsor’s employees will be engaged in maritime employment, coverage shall provide workers’ compensation benefits as required by the U.S. Longshore and Harbor Workers’ Compensation Act, Jones Act or any other federal law for which Sponsor is responsible.

In all cases, the above insurance also shall include Employers’ Liability coverage with limits of not less than the following:

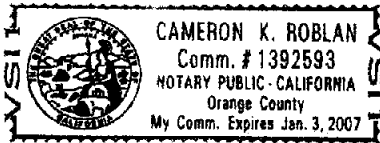
Each Accident:	\$1 million
Disease - policy limit:	\$1 million
Disease - each employee:	\$1 million

6. Section 10, Notices, is hereby amended to delete the existing County contact information and replace it as follows:

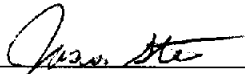
Department of Beaches and Harbors
Community and Marketing Services Division
13837 Fiji Way
Marina del Rey, CA 90292
Attn: Marketing Section

7. Except as otherwise expressly stated herein, all other terms and conditions of the Agreement including Amendment No. 1 shall remain in full force and effect and are hereby reaffirmed by the County and the Sponsor.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 to Agreement No. 69984 as of the date first above written.



ADOPT-A-HIGHWAY MAINTENANCE
CORPORATION, a California corporation

By 
Jason Stern, President

COUNTY OF LOS ANGELES

By _____
Chair, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer-
Clerk of the Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER
County Counsel

By _____
Deputy

Adopt-A-Highway Trash Barrels Maintenance Standard

The Adopt-A-Highway Trash Barrel maintenance program consists of several tasks that are performed throughout the year on the Trash Barrels located on L.A. County Beaches. These tasks include but are not limited to the following:

- Assist in Trash Barrel placement, performed by the Department of Beaches and Harbors' beach maintenance personnel
- Physical inspection of Trash Barrels
- Exterior wipe-down of Trash Barrels with environmentally friendly, non-toxic cleaning solution
- Poster Trash Barrels with new campaigns or public service messages
- Peel posters from Trash Barrels to either replace existing campaigns or to fix damaged posters
- Remove and/or replace damaged, lost, or stolen Trash Barrels
- Remove and/or restore Trash Barrel inventory as seasonal conditions warrant

Maintenance Standard Frequency of Services

Beach Category*	Area Covered of L.A. County Beaches	Frequency of Service in Summer Season (May to September)	Frequency of Service in Winter Season (October to April)
A	60%	2 weeks	4 weeks
B	25%	4 weeks	8 weeks
C	15%	8 weeks	12 weeks

*Adopt-A-Highway determines the Beach Category by two criteria: (1) the number of sponsors on a beach during a season; and (2) the beach attendance. As such criteria varies each season and each year, the exact beaches considered to be "A", "B" or "C" will vary.

SPECIFICATIONS FOR TRASH BARREL LID
for Los Angeles County Beach Trash Barrels

Lid Material:	Entirely Moulded plastic
Diameter:	Approximately 22 inches
Actual Color:	Black (image below is representative of design and not color)
Secured to Trash Barrel:	By pop rivets or other method
Other details:	Hinged lid; both sections of lid have raised Lip extrusions to help lid close after each use. Larger section of lid has a 3 inch long extended Lip to facilitate opening it.

Pictures of Lid:

